

50634-POG

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL K. DOMAN,)	
)	
Plaintiff,)	
)	No.: 08 C 1776
v.)	
)	Honorable Judge Zagel
WILL COUNTY STATE'S ATTORNEY'S)	
OFFICE, LEA NORBUT, PETE PIAZZA and)	Magistrate Judge Denlow
LAURENCE LESCYNski,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS PLAINTIFF *PRO SE* COMPLAINT

NOW COME Defendants, JAMES W. GLASKOW, STATE'S ATTORNEY OF WILL COUNTY, PETE PIAZZA, LEA NORBUT, and LAURENCE LESZCYNski, by and through their attorneys, QUERREY & HARROW, LTD., and moves this Court to dismiss Plaintiffs First Amended Complaint for failure to comply with Fed. R. Civ. Proc.12(b)(6). In support, Defendants state as follows:

INTRODUCTION

On March 27, 2008, Plaintiff Michael K. Doman, filed his *Pro se* Complaint ("Complaint") alleging civil rights violations and multiple state law claims. However, Plaintiff's complaint fails to provide any facts describing any incident that gives rise to the claims at hand. Plaintiff's two paragraph complaint simply alleges that Plaintiff's "family has been violated for the past 4 ½ years, emotionally and financially by the Will County State's Attorney's Office." (Plaintiff's Complaint, p. 1)

Plaintiff's Complaint does not put Defendants on notice of the claims against them or their specific involvement that would give rise to liability. Additionally, Defendants Norbut and Lescynski are Assistant State's Attorneys and, under certain circumstances are protected by absolute immunity.

Standard of Review

Under Rule 12(b)(6) a claim may be dismissed if, as a matter of law, "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989) (quoting *Hishon v. King & Spaulding*, 467 U.S. 69, 73 (1984)). In reviewing a motion to dismiss, a district court's review is limited to the four corners of the complaint. *Gomez v. Illinois State Bd. of Ed.*, 811 F.2d 1030, 1039 (7th Cir. 1987). The court should take the well-pleaded factual allegations of the complaint and view them, as well as reasonable inferences drawn from them, in the light most favorable to the plaintiff. *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997). Furthermore, it should be noted that "litigants may plead themselves out of court by alleging facts that may establish defendants' entitlement to prevail." *Bennett v. Schmidt*, 153 F.3d 516, 519 (7th Cir. 1998).

ARGUMENT

Under the Federal Rules of Civil Procedure, Plaintiff's need only provide notice of the claims to defendants by setting forth "a short and plain statement of the claim showing that the pleader is entitled to relief. Fed. R. Civ. Proc. 8(a)(2). However, "an allegation of time or place is material when testing the sufficiency of a pleading." Fed. R. Civ. Proc. 9(f). In this case, the pleadings are grossly inadequate. There is no description of the events, when the events occurred, or the purported conduct of the individual defendants that give rise to this lawsuit. As stated, absolute prosecutorial discretion would protect defendants for liability. Moreover, the

statute of limitations may bar certain state and federal claims depending on when the claims accrued. Defendants cannot provide a proper defense to this matter or even answer the allegations without a minimum factual basis.

WHEREFORE Defendants, PETE PIAZZA, LEA NORBUT, LAURENCE LESZCYNski, and JAMES W. GLASKOW, STATE'S ATTORNEY OF WILL COUNTY, pray that this Honorable Court grant their Motion to Dismiss and for any relief that this Court deems necessary and just.

Respectfully submitted,

JAMES W. GLASKOW, STATE'S ATTORNEY OF WILL
COUNTY, PETE PIAZZA, LEA NORBUT, LAURENCE
LESZCYNski, Defendants.

By: /s/ Paul O'Grady
One of its attorneys

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